

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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JOSEPH A. FERRARA, SR., FRANK H.
FINKEL, MARC HERBST, THOMAS N. PIALI,
DENISE RICHARDSON, ANTHONY
D'AQUILA, THOMAS GESUALDI, LOUIS
BISIGNANO, DOMINICK MARROCCO, and
ANTHONY PIROZZI, as Trustees and Fiduciaries
of the Local 282 Welfare Trust Fund, the Local
282 Pension Trust Fund, the Local 282 Annuity
Trust Fund, the Local 282 Job Training Trust
Fund, and the Local 282 Vacation and Sick Leave
Trust Fund,

Plaintiffs,

-against-

FRANK J. BATCHELDER TRANSPORTATION
LLC,

Defendant.

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APPEARANCES:

Cohen, Weiss and Simon, LLP

Attorneys for the plaintiffs

330 West 42nd Street

New York, NY 10036

By: Joseph J. Vitale, Esq.

Zachary N. Leeds, Esq., of Counsel

NO APPEARANCE:

Frank J. Batchelder Transportation LLC

SPATT, District Judge.

The plaintiffs commenced this action on or about September 16, 2010,
asserting claims pursuant to Section 502(a)(3) and 515 of the Employee Retirement
Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. §§ 1132(a)(3) and

ORDER

10-cv-4214 (ADS)(WDW)

1145. On March 28, 2011, the Court entered a default judgment against the defendants, and referred the matter to United States Magistrate Judge William D. Wall for an inquest as to damages, appropriate injunctive relief, appropriate attorney's fees, and costs. On July 6, 2011, Judge Wall issued a thorough Report recommending that the plaintiff be awarded damages in the amount of (1) estimated unpaid contributions in the amount of \$134,660.63 for the period from June 11, 2007 through June 30, 2009; (2) interest from the date the contributions were due through April 21, 2011, in the amount of \$55,777.52; (3) liquidated damages in the amount of \$55,777.52; (4) interest at a rate of \$66.41 per day for unpaid contributions from April 22, 2011 to the date judgment is entered; (5) liquidated damages at a rate of \$66.41 per day from April 22, 2011 to the date judgment is entered; (6) attorney's fees in the amount of \$7,467.50; and (7) costs in the amount of \$723.61. To date, no objection has been filed to Judge Wall's Report and Recommendation.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall's Report and finds it be persuasive and without any legal or

factual errors. There being no objection to Judge Wall's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Wall's Report and Recommendation is adopted in its entirety; and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the defendants in the amount recommended by Judge Wall and set forth above; and it is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
September 22, 2011

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge